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**IOWA UTILITIES BOARD**  
**Policy Development and Energy Sections**

Docket No.: TF-2015-0007 and  
TF-2015-0008

Utility: Interstate Power and Light  
Company

File Date: January 29, 2015

Memo Date: March 31, 2015

**TO:** The Board

**FROM:** Brenda Biddle and Andrew McGrean

**SUBJECT:** Recommendation to Require Additional Information

**I. Background**

On January 29, 2015, Interstate Power and Light Company (IPL) filed with the Iowa Utilities Board (Board) its annual Electric Energy Efficiency Cost Recovery (EECR) Report, along with a new tariff to implement revised electric cost recovery factors to be effective April 1, 2015. The filing reflects a set of factors developed from estimated 2015 contemporaneous expenditures to be incurred in the next 12 months and reconciliation of the 2014 actual EECR collections compared to the actual 2014 contemporaneous expenditures.

The filing also includes corrections for two significant, prior period errors discovered subsequent to IPL's approved 2014 EECR filing. One of these corrections is related to a 2012 under-recovery created by a misstatement of revenues from IPL's 2013 filing; the other correction relates to misstated 2013 interruptible credits from IPL's 2014 EECR filing.

On February 18, 2015, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a Conditional Objection. In its Conditional Objection, the OCA states that it has no issues with the proposed corrections. The OCA is, however, concerned whether IPL's proposed EECR factors sufficiently reflect the anticipated levels of direct cost assignment to IPL's Large General Service (LGS) and General Service (GS) rate classes as agreed to in Settlement Issue 17 approved in IPL's current Energy Efficiency Plan (EEP). IPL's approved EEP budget per class for cost recovery purposes is based on allocations determined in its most recent rate case, which differs from the directly assigned costs.

The OCA finds it difficult to compare IPL's direct assignment spending versus budget for these customer classes. This comparison is used to determine

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whether a plan modification or waiver for spending variance is needed under 199 IAC 35.6(4). It is also difficult to compare nonresidential spending to budget because of the recent introduction of direct cost assignment to the LGS and GS classes. IPL should propose an alternative method or mechanism to evaluate the nonresidential plan direct-assigned spending with IPL's approved EEP budget allocation. The OCA requests that IPL's EECR filing be docketed for investigation of the foregoing concerns. The OCA does not object to IPL's proposed residential factors going into effect, but does recommend that IPL further investigate the nonresidential factors to ensure that they appropriately reflect the direct assignment of costs approved for the nonresidential class.

On March 9, 2015, IPL filed a response to the OCA's Conditional Objection. In the response, IPL argues that based on Board precedent and the rules related to energy efficiency plans neither a waiver nor a plan modification is appropriate. IPL says that in 2014 it exceeded the kilowatt hour (kWh) savings goal for the electric energy efficiency plan and its natural gas savings were 96 percent of the savings goal. IPL committed to ongoing review of its energy efficiency plan while working with interested stakeholders. IPL also provides a comparison of 2014 actual spending to the 2014 planned spending and provided a comparison of 2014 actual kWh savings to the 2014 planned kWh savings.

IPL addresses the OCA's concern about the allocation factor by stating that the allocation between residential and nonresidential customer classes was not changed. However, the allocation methodology between GS and LGS rate classes was changed to allocate incentive expenses to the class which incurred the expense. Non-incentive costs continue to be allocated based on the nonresidential allocator which is derived from information in Docket No. RPU-2010-0001 (for electric) and Docket No. RPU-2012-0002 (for natural gas).

On March 16, 2015, the OCA filed a Reply to Response. The OCA notes that IPL's energy efficiency plan was part of a contested case and IPL cannot unilaterally change that plan. Furthermore, the OCA explains that the Board's rules (199 IAC 35.6(4)) require IPL to file an application to modify its plan because its residential electric spending was 18 percent below the approved budget, residential gas spending was 14 percent below approved budget, nonresidential gas spending was less than 50 percent of approved budget, and total gas spending was 28 percent below approved budget. The OCA states that IPL agreed<sup>1</sup> to seek a program modification concurrently with, or shortly after its EECR filing if the EECR filing demonstrated variances with spending or impact conditions established in the Board's rules.

The OCA suggests the Board require IPL to file information indicating whether it will seek a plan modification or waiver. The OCA points out that IPL's under-spending results in over collection of energy efficiency costs and if factors driving

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<sup>1</sup> Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Appendix 3, p. 1 (4a), Docket No. EEP-2012-0001, July 26, 2013.

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the under spending are not fully understood or addressed and no modification is sought, it is possible that the over recovery will continue. Additionally, the OCA cautions that a utility's under spending in areas for which it has control (promotion, education, outreach, and training), can give rise to prudence concerns. These spending variances should be justified to demonstrate prudence. The OCA believes that these issues deserve further investigation.

## **II. Legal Standards**

Energy efficiency cost recovery for investor-owned utilities (IOUs) is governed by the following statute:

### **Iowa Code §476.6(16)"g".**

A gas or electric utility required to be rate-regulated under this chapter may recover, through an automatic adjustment mechanism filed pursuant to subsection 8, over a period not to exceed the term of the plan, the costs of an energy efficiency plan approved by the board, including amounts for a plan approved prior to July 1, 1996, in a contested case proceeding conducted pursuant to paragraph "e". The board shall periodically conduct a contested case proceeding to evaluate the reasonableness and prudence of the utility's implementation of an approved energy efficiency plan and budget. If a utility is not taking all reasonable actions to cost-effectively implement an approved energy efficiency plan, the board shall not allow the utility to recover from customers costs in excess of those costs that would be incurred under reasonable and prudent implementation and shall not allow the utility to recover future costs at a level other than what the board determines to be reasonable and prudent. If the result of a contested case proceeding is a judgment against a utility, that utility's future level of cost recovery shall be reduced by the amount by which the programs were found to be imprudently conducted. The utility shall not represent energy efficiency in customer billings as a separate cost or expense unless the board otherwise approves.

The Board's Administrative Rules contain a chapter (chapter 35) which includes procedures for energy efficiency plan modification and cost recovery by the IOUs.

### **199 IAC 35.6(4) Modification after implementation.**

An approved energy efficiency plan and budget may be modified during implementation if the modification is approved by the board. The consumer advocate or the utility may file either a separate or joint application for modification. The board, on its own motion, may consider modification of the energy efficiency plan and budget.

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- a. The utility shall file an application to modify if any one of the following conditions occurs or is projected to occur during the current or subsequent calendar year of implementation of its plan:
  - (1) The total annual plan budget has changed or will change by a factor of at least plus or minus 5 percent;
  - (2) The budget per customer class or grouping has changed or will change by a factor of at least plus or minus 10 percent;
  - (3) An approved program is eliminated or a new program is added.
- b. All applications to modify shall be filed in the same docket in which the energy efficiency plan was approved. All parties to the docket in which the energy efficiency plan was approved shall be served copies of the application to modify and shall have 14 days to file their objection or agreement. Failure to file timely objection shall be deemed agreement.
- c. Each application to modify an approved energy efficiency plan shall include:
  - (1) A statement of the proposed modification and the party's interest in the modification;
  - (2) An analysis supporting the requested modification;
  - (3) An estimated implementation schedule for the modification; and
  - (4) A statement of the effect of the modification on attainment of the utility's performance standards and on projected results of the utility's implementation of its plan.
- d. If the board finds that reasonable grounds exist to investigate the proposed modification, a procedural schedule shall be set within 30 days after the application is filed.
- e. If an application to modify is filed and the board finds that there is no reason to investigate, then the board shall issue an order stating the reasons for the board's decision relating to the application.
- f. If the board rejects or modifies a utility's plan, the board may require the utility to file a modified plan and may specify the minimum acceptable contents of the modified plan.

**199 IAC 35.12(476) Energy efficiency cost recovery.**

A utility shall be allowed to recover the previously approved costs, deferred past costs, and estimated contemporaneous expenditures of its approved energy efficiency plans through an automatic adjustment mechanism. The utility may propose to recover the portion of the costs of process-oriented industrial assessments related to energy efficiency. Only unrecovered costs may be recovered through the automatic adjustment mechanism, and costs may be recovered only once.

This section of chapter 35 is followed by a page of definitions and descriptions of accounting procedures which applied to costs being recovered in the period 1997-2001, during which the IOUs recovered both the ongoing costs of energy efficiency plans and the deferred costs of plans implemented up to 1997. In

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addition to these rules, rule 35.12 includes time frames and calculation procedures which continue to be applicable ... (formulas follow)

**199 IAC 35.12(2) Automatic adjustment mechanism.**

Each utility required to be rate-regulated shall file by March 1 of each year, subject to the board's approval, energy efficiency costs proposed to be recovered in rates for the 12-month recovery period beginning at the start of the first utility billing month at least 30 days following board approval. Each utility may elect to file its first energy efficiency automatic adjustment up to 120 days after the effective date of these rules.

**199 IAC 35.12(3) Energy efficiency cost recovery (ECR) factors.**

The utility shall calculate ECR factors separately for each customer classification or grouping previously approved by the board. For all plans current at the time this rule becomes effective and for all future plans, if a utility desires to use customer classifications or allocations of indirect or other related costs other than those previously approved, such customer classifications or allocations of indirect or other related costs must be approved as part of a plan filing or of a modification thereof. ECR factors shall use the same unit of measurement as the utility's tariffed rates.

**199 IAC 35.12(4) Filing requirements.**

Each utility proposing automatic recovery for its energy efficiency costs shall provide the following information:

- a. The filing shall restate the derivation of each ECR factor previously approved by the board.
- b. The filing shall include new ECR factors based on allocation methods and customer classifications and groupings approved by the board in previous proceedings.
- c. The filing shall include all worksheets and detailed supporting data used to determine new ECR factors. Information already on file with the board may be incorporated by reference in the filing.
- d. The filing shall include a reconciliation comparing the amounts actually collected by the previous ECR factors to the amounts expended. Over-collections or under-collections shall be used to compute adjustment factors.
- e. If in a prudence review, the board has determined that previously recovered energy efficiency costs were imprudently incurred, adjustment factors shall include reductions for these amounts.

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**35.12(5) Tariff sheets.**

Upon approval of the new ECR factors, the utility shall file separate tariff sheets for board approval to implement the ECR factors in its rates.

**III. Analysis**

Staff has reviewed the filings from IPL and the OCA and notes that there are two issues that need to be addressed. The first is the allocation method used in allocating the nonresidential energy efficiency costs to the LGS, GS, and Bulk rate classes and the other is whether IPL should file a plan modification or waiver request.

With respect to the allocation methodology used in the EECR filing, the specific formulas or proportions used by each utility to allocate costs were developed through settlements between the OCA and each utility. In the case of IPL and its predecessor companies, energy efficiency cost recovery allocations were designed and continue to be implemented as follows:

- Program implementation costs for most programs are allocated directly to the customer class (that is residential or nonresidential) which is eligible to participate in the program. These allocation factors were based on information from Docket No. RPU-2010-0001 (for electric) and Docket No. RPU-2012-0002 (for natural gas).
- Exceptions to the direct assignment method are made for the costs from the IPL residential load control and nonresidential interruptible program, which are distributed to all classes per a settlement between the OCA and IPL in Docket No. EEP-02-38.
- The previously-approved nonresidential load management allocation factors used in assigning costs to the Bulk Power class were based upon data from IPL's compliance filing in Docket No. RPU-04-1. These factors continue to be used for the current IPL energy efficiency plan under Docket No. EEP-2012-0001.

IPL indicates that it changed the allocation methodology based on the resolution between IPL and the Iowa Customers for Energy Efficiency in Settlement Issue 17 - Tracking Nonresidential Expenditures in Docket No EEP-2012-0001.<sup>2</sup> The Board approved Settlement Issue 17 in the December 2, 2013, Final Order by stating:

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<sup>2</sup> Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement, Docket No. EEP-2012-0001, July 26, 2013.

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“Based on IPL’s assertions that the cost of tracking will be minimal with its new system, the Board does not see any harm to customers from tracking this information and additional information could benefit future energy efficiency plan development. The Board does not see this information as a precursor to an opt-out program. While some costs will still need to be allocated, the tracking agreed to in the settlement could provide for more accurate cost allocation in the future. The Board will approve the **tracking** contained in the settlement and will include those minimal costs in IPL’s energy efficiency plan.” (pages 47-48) (Emphasis added)

The Settlement and Board order reference tracking nonresidential energy efficiency expenditures by rate class as well as by program but did not state there would be a change in the allocation methodology. Furthermore, IPL’s Initial Brief filed August 21, 2013, in Docket EEP-2012-0001 states:

“Issue No. 17 has been resolved between IPL and the ICEE. IPL **agrees to track** within its systems non-residential energy efficiency expenditures by rate class as well as by program and will consider that information in developing future EECR factors. IPL believes this is a fair resolution of this issue as it will allow for increased accuracy regarding the future allocation of costs across non-residential rate classes.” (page 42) (Emphasis added)

Staff recommends that IPL be required to revise its electric and natural gas EECR filings to reflect the previously-approved methodology for the allocation of energy efficiency expenditures. The nonresidential expenditures (General Service, Large General Service, and Bulk) should be allocated based on the approved allocators.

The second issue is whether IPL should file a plan modification or request a waiver. According to the Board’s rules (199 IAC 35.6(4)), the utility shall file an application to modify its energy efficiency plan if any one of the following conditions occurs:

- (1) The total annual plan budget has changed or will change by a factor of at least plus or minus 5 percent;
- (2) The budget per customer class or grouping has changed or will change by a factor of at least plus or minus 10 percent; and
- (3) An approved program is eliminated or a new program is added.

Additionally, in the “Collaboration Plan for IPL and 2014-2018 Energy Efficiency Plan (EEP) Stakeholders – Appendix 3 of Settlement”<sup>3</sup> IPL agreed:

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<sup>3</sup> Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Appendix 3, p. 1 (4a), July 26, 2013.

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“...If the filing demonstrates spending or impact variances above thresholds established in IUB rule (199 35.6(4)) and the circumstance(s) contributing to such variance is (are) expected to continue, IPL will seek a program modification concurrently with or shortly after its EECR filing. The scope of modification may be limited to the particular factor(s) driving the budget or impact variance.”

IPL provided the spending and savings information for the 2014 program year. The following tables summarize that information.

<b>2014 Electric Energy Efficiency Spending</b>			
	Actual	Plan	Actual as % of Plan
Residential	\$19,143,773	\$24,383,191	78.5%
Nonresidential	\$52,083,392	\$47,128,166	110.5%
Outreach, Education & Training	\$2,108,560	\$2,339,013	90.1%
Other	\$1,505,445	\$1,370,377	109.9%
Total	\$74,841,170	\$75,220,747	99.5%

The 2014 residential spending for electric energy efficiency was 21.5 percent below plan spending which triggers a modification based on the second condition. (See 199 IAC 35.6(4)"a" (2)) Although IPL spent only 78.5 percent of its planned spending, IPL's actual savings for the residential programs (60,589,544 kWh) exceeded its residential savings target (38,761,363 kWh) by 56 percent.

<b>2014 Natural Gas Energy Efficiency Spending</b>			
	Actual	Plan	Actual as % of Plan
Residential	\$8,416,546	\$9,449,743	89.1%
Nonresidential	\$1,685,217	\$4,137,714	40.7%
Outreach, Education & Training	\$521,014	\$905,482	57.5%
Other	\$414,676	\$329,623	125.8%
Total	\$11,037,479	\$14,822,562	74.5%

For the 2014 natural gas programs IPL spent nearly 90 percent of its planned spending for the residential programs, 40.7 percent of its planned spending for nonresidential programs, and 75 percent of its total planned spending. IPL's 2014 natural gas spending prompts a modification based on the first and second conditions of the Board's rules. (See 199 IAC 35.6(4)"a"(1) and (2)) IPL exceeded savings targets for residential natural gas programs by 39 percent but was 35 percent below savings targets for nonresidential programs.



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Staff believes that there are areas of IPL's spending for the 2014 energy efficiency programs that meet the conditions in the Board's rules which prompt IPL to file a plan modification or request a waiver. If IPL chooses to request a waiver, that filing should include adequate justification as to why a modification is not warranted and the actions it has taken to assure the Board and the other stakeholders that IPL's spending for energy efficiency programs is prudent.

#### IV. Recommendation

Staff recommends that the Board direct General Counsel to draft an order requiring IPL to revise its electric and natural gas EECR filings to reflect the previously-approved methodology for the allocation of energy efficiency expenditures and file a plan modification per 199 IAC 35.6(4) or request a waiver of the plan modification requirements.

#### RECOMMENDATION APPROVED

#### IOWA UTILITIES BOARD

/bkb

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/s/ Elizabeth S. Jacobs      4-1-15

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Date

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Date

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/s/ Sheila K. Tipton      4-3-2015

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Date

#### *Waiver or Modification to the plan:*

*Rule 199 IAC 35.6(4) defines when a utility shall file an application to modify its energy efficiency plan. The conditions of the rule use variance in plan budgets and not variance plan spending to determine when a utility is required to file a modification of its energy efficiency plan. The "Collaboration Plan for IPL and 2014-2018 Energy efficiency Plan Stakeholders – Appendix 3 of Settlement" covers situations where spending or impact variances are above the threshold values listed in IAC 199 35.6(4) to determine when a utility is required to file a modification of its energy efficiency plan.*

*In this case it is not the budget that was out of variance but the spending and impacts which are above threshold values. This would require that Appendix 3 of the settlement would be the governing rule. There is no documentation or evidence to show that the "circumstance(s) contributing to such variance is (are) expected to continue" as described in Appendix 3 of the Settlement and therefore the board cannot determine that the agreement applies in this situation. Since there is no evidence that the agreement applies I do not believe that a modification of the plan or waiver of 199 IAC 35.6(4) is required without further evidence that shows this is expected to continue.*

#### *Change to EECR factors:*

*The EECR factors are determined by the electric tariffs filed by the utility and approved by the board. Since the EECR values are determined through the allocation method the allocation*

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*method is therefore approved by the board through association. I don't see that there is a question as to whether the change in allocation method is allowed. It is allowed through the tariff change request. IPL has presented data that provides the EECR collection and costs are inequitable. The question is whether these inequities will continue along the same trend or shift again in the future. I do not think the board should allow inequities to continue if they are known. The difficulty is that there is only one year of data which does not provide a reliable trend with which to make a decision. The inequity could shift again in following years creating uncertainty for consumers. Before I can allow a change to the allocation method the board needs more data to indicate a trend in the direction that IPL is requesting and would like to request from IPL any data that they might have that shows this is a trend that should be corrected now.*

*It is important to note that the goals are being exceeded with less spending than was budgeted. This is a benefit to customers twofold and the utility should not be penalized or chastised for its achievements. NAW 4/2/15*

*ECR Allocation Factors:*

*As I understand it, the specific allocation factors used by IPL to allocate the nonresidential energy efficiency costs to the LGS, GS and Bulk rate classes were developed as a result of settlements in previous rate case and/or EEP dockets. Specifically:*

- Most program implementation costs are to be allocated directly to the customer class eligible to participate in the program (Docket No. RPU-2010-0001 (electric) and Docket No. FPU-22012-0002 (gas));*
- An exception to the foregoing rule was made for costs of the IPL residential load control and nonresidential interruptible program, which are to be distributed to all classes (per settlement agreement in Docket No. EEP-02-38);*
- Another exception to the first rule above applies to allocation of costs to the bulk power class (based upon IPL's compliance filing in RPU-04-1).*

*Contrary to Board Member Wagner's separate comments, these were the factors upon which IPL's filing in Docket No. EEP-2012-0001 was based, and which the Board approved in its final order in that case.*

*The ONLY action that the Board authorized in that Docket respecting allocation factors was to authorize IPL to track program expenditures by rate class for analysis in a future EEP docket. IPL's brief in Docket No. EEP-2012-0001 sets out the issue as follows:*

- 17. Whether IPL should be ordered to track non-residential energy efficiency expenditures by rate class as well as by program.*

*Issue No. 17 has been resolved between IPL and the ICEE. IPL agrees to track within its systems non-residential energy efficiency expenditures by rate class as well as by program and will consider that information in developing future EECR factors. IPL believes this is a fair resolution of this issue as it will allow for increased accuracy regarding the future allocation of costs across non-residential rate classes.*

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ICEE's brief in support of the settlement further explains the intent of the settlement in pertinent part as follows:

*Tracking these expenditures by rate schedule will provide valuable information that will inform future cost assignments and allocations and will result in more accurate matching of costs and benefits.*

*IPL's position in this docket -- that the Board's order approving the settlement in Docket No. EEP-2012-0001 authorized it to not only track the costs by rate class, but also to change the allocation factors applicable to the LGS, GS and Bulk Power classes -- is simply incorrect. All that order did was to allow IPL to track the costs by rate class so as to provide data to be examined in the next EEP Docket to determine whether in fact the allocation factors should be changed for the future.*

*The current docket is for the purpose of determining whether costs are being allocated in accordance with the Board's order in Docket No. EEP-2012-0001 and whether the costs being flowed through the EECR are correct or require some sort of true-up. Because IPL is not using the allocation factors approved in Docket No. EEP-2012-0001, its filing is not correct. I am thus in agreement with Staff's recommendation that IPL be required to revise its electric and natural gas EECR filings to reflect the previously approved methodology for allocating energy efficiency costs.*

#### Waiver/Modification of Plan

*The Board's rules require modification of an energy efficiency plan if any one or more of the following occurs:*

- The total annual plan budget has changed or will change by a factor of at least plus or minus 5%;*
- The budget per customer class or grouping has changed or will change by a factor of at least plus or minus 10%; and*
- An approved program is eliminated or a new program is added.*

*IPL's filing in this Docket shows that its actual 2014 spending for electric energy efficiency was 21.5% below plan. On the gas side, the filing also shows that IPL's actual 2014 spending on residential energy efficiency programs was 10% below plan, its actual spending on non-residential programs was 60% below plan and its total spend was 25% below plan.*

*Board Member Wagner, in his separate comments, states that modification is only required where the utility's "budget" varies from plan, not where actual spending varies from budget. However, Appendix 3 to the settlement agreement compels a contrary conclusion. Appendix 3 to the Settlement Agreement is the "Collaboration Plan for IPL and 2014-2018 Energy Efficiency Plan (EEP) Stakeholders." In that document, the parties, including IPL, agreed that a plan modification would be required if IPL's spending met the conditions set out in the Board's rules referenced above. The document provided:*

*If the filing demonstrates spending or impact variances above thresholds established in IUB rule (199 35.6(4)) and the circumstance(s) contributing to such variance is (are) expected to continue, IPL will seek a program modification concurrently with or shortly after its EECR filing. The scope of modification may be limited to the particular factor(s) driving the budget or impact variance.*

*Thus, in accordance with the settlement agreement negotiated by the parties, including IPL, IPL's actual versus plan energy efficiency costs trigger a modification under the first and second*

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*conditions above, UNLESS IPL shows that the circumstances contributing to the variances between budget and spend ARE NOT expected to continue, in which case it may request a waiver of the modification requirement. That is, IPL must show that it expects to meet the spend targets in the future or it is required to modify its plan. If that is not the case, then IPL should request a waiver of the modification requirement. This is only fair. To the extent that IPL is not spending its budget amounts, it is over-collecting revenues for energy efficiency from its customers. This is not appropriate.*

*Accordingly, I propose that the Board order IPL to file information sufficient to allow the Board to determine whether in fact IPL intends to spend the amounts it has budgeted for energy efficiency programs. If so, then IPL should seek a waiver of the modification requirement with proof to that effect. In the event that IPL is able to achieve its energy efficiency goals without needing to spend amounts that it has budgeted, it should not be collecting budgeted costs from its customers and a modification of its plans is in order. SKT 4/3/15*

*I concur with Board Member Tipton's comments on the ECR Allocation Factors and continue to agree with staff's recommendation that IPL be required to revise its electric and natural gas EECR filings to reflect the previously-approved methodology for the allocation of energy efficiency expenditures.*

*Regarding the second issue of whether IPL should file a plan modification or request a waiver, I refer back to the "Collaboration Plan for IPL and 2014-2018 Energy Efficiency Plan (EEP) Stakeholders-Appendix 3 of the Settlement." In that document, it is clearly noted that IPL's actual versus plan energy efficiency costs trigger a plan modification unless IPL shows that the circumstances contributing to such variance are not expected to continue.*

*Given that IPL agreed to the language in Appendix 3 of the Settlement, I concur with Board Members Wagner and Tipton that additional information from IPL is required in order for a determination to be made by the Board regarding whether a modification of the plan or a waiver of 199 IAC 35.6(4) is needed. ESJ 4-7-15*